IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

COMPANY PETITION NO.566 OF 2006

In the matter of Satyagiri Shipping Company Limited

KJMC Financial Services Limited ..Petitioner.

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Mr. R.A. Shah i/b Mansukhlal Hiralal & Co. for the Petitioner.
Mr. A.M. Jaykar i/b Khaitan & Jaykar for the Respondent.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

21st March, 2007.

P.C. :

After the Company Petition has been heard, Counsel appearing for the Petitioner and Counsel appearing for the Respondent have requested the Court that following order may be passed on the instructions of their clients by consent and without further recording of reasons :

i) Within a period of eight weeks from today, the Respondent shall furnish a Bank Guarantee of a nationalized bank to the satisfaction of the Prothonotary & Senior Master in the amount of Rs.17.50 lacs inclusive of interest computed @ 9% per annum from the date of this order;

ii) The Petitioner shall upon the Bank Guarantee being furnished in terms of clause (i) above, and upon a communication to that effect being addressed by Counsel appearing for the Respondent, be at liberty to instituted a suit for the recovery of its claim for the refund of an amount of Rs.17.50 lacs together with interest;

iii) The Bank Guarantee shall, upon institution of the suit, stand to the credit of the suit account and will abide by the final result of the suit or such final orders as may be passed by the appropriate Court:

iv) In the event that the Respondent fails to furnish a Bank Guarantee within the period stipulated and in terms set out herein above, the Petitioner shall be at liberty to revive the Company Petition and to apply for consequential directions therein;

v) In the event that the Petitioner fails to institute the suit upon the expiry of a period of four months of the furnishing of the Bank Guarantee, it would be open to the Respondent to apply before this Court for consequential orders in regard to the

discharge of the Bank Guarantee.

The Petition is disposed of since no other point has been pressed on either side.